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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CENTRAL DISTRICT, UNLIMITED JURISDICTION

ANTHONY SCEARCE, an Individual,

Plaintiff,

vs.

CITY OF LOS ANGELES, a governmental entity; WEST HILLS NEIGHBORHOOD COUNCIL, a governmental entity; DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT, a governmental entity; DAN BRIN, individually; STEVE RANDALL, individually; MYRL SCHREIBMAN, individually; JOANNE YVANEK-GARB, individually; CHAR ROTHSTEIN, individually; and SEMEE PARK, individually;

Defendants.

Case No. **21STCV14635**

COMPLAINT FOR MONETARY AND PUNITIVE DAMAGES

1. Discrimination Based on Race, Color, and National Origin [Cal. Gov't Code §12940(a)]
2. Harassment in Violation of FEHA [Cal. Gov't Code §12940(J)]
3. Failure To Prevent Harassment And Discrimination From Occurring in Violation of the Fair Employment and Housing Act [Cal. Gov't Code §12940(k)]
4. Retaliation in Violation of the FEHA [Cal. Gov't Code §§12940(h)]
5. Harassment And Aiding And Abetting In Violation Of Cause Of Gov't Code §§12940 Et Seq.
6. Violations of the UNRUH Civil Rights Act, Civil Code §§ 51, 52
7. Violations of the RALPH Civil Rights Act, Civil Code §§ 51.7
8. Negligent Retention
9. Negligent Supervision
10. Intentional Infliction of Emotional Distress
11. Negligent Infliction of Emotional Distress
12. Assault

DEMAND FOR JURY TRIAL

COMES NOW PLAINTIFF, ANTHONY SCEARCE, and for causes of action against the Defendants and each of them, alleges as follows:

I.

PARTIES

1. At all times material, Plaintiff Anthony Searce (hereinafter referred to as “Plaintiff” or “SCEARCE”), was and is an individual African American male residing in the State of California, City of West Hills.

2. At all times material, Defendant CITY OF LOS ANGELES (“LA”) was and is a governmental entity doing business in the State of California, with their principal place of business located at 200 N Spring St, Los Angeles, CA 90012 who held supervisory authority over Plaintiff, controlling various tangible aspects of his board membership, including the ability to elect and remove Plaintiff

3. At all times material, Defendant WEST HILLS NEIGHBORHOOD COUNCIL (“WEST HILLS”) was and is a city governmental entity doing business in the State of California, with their principal place of business located at P.O. Box 4670, West Hills, CA 91308-4670 who held supervisory authority over Plaintiff, controlling various tangible aspects of his board membership, including the ability to elect and remove Plaintiff.

4. At all times material, Defendant DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT (“DONE”) was and is a city governmental entity doing business in the State of California, with their principal place of business located at 14410 Sylvan St. 3rd Floor, Los Angeles, CA 91401 who held supervisory authority over Plaintiff, controlling various tangible aspects of his board membership, including the ability to elect and remove Plaintiff.

5. Plaintiff is informed and believes and thereon alleges that Defendants were Plaintiff's joint employers.

6. At all times material, Defendant DAN BRIN (“BRIN”) was and is the President of Defendants LA and WEST HILLS, and held supervisory authority over Plaintiff, controlling various tangible aspects of Plaintiff’s board membership, including the ability to punish, elect and remove Plaintiff from subcommittees.

7. At all times material, STEVE RANDALL (“RANDALL”) was and is a Supervisor for Defendants LA and WEST HILLS, and held supervisory authority over Plaintiff, controlling various tangible aspects of Plaintiff’s board membership, including the ability to punish, elect and remove Plaintiff from subcommittees.

8. At all times material, MYRL SCHREIBMAN (“SCHREIBMAN”) was and is a Supervisor for Defendants LA and WEST HILLS, and held supervisory authority over Plaintiff, controlling various tangible aspects of Plaintiff’s board membership, including the ability to punish, elect and remove Plaintiff from subcommittees.

9. At all times material, JOANNE YVANEK-GARB (“GARB”) was and is a Supervisor for Defendants LA and WEST HILLS, and held supervisory authority over Plaintiff, controlling various tangible aspects of Plaintiff’s board membership, including the ability to punish, elect and remove Plaintiff from subcommittees.

10. At all times material, CHAR ROTHSTEIN (“ROTHSTEIN”) was and is a Supervisor for Defendants LA and WEST HILLS, and held supervisory authority over Plaintiff, controlling various tangible aspects of Plaintiff’s board membership, including the ability to punish, elect and remove Plaintiff from subcommittees.

11. At all times material, SEMEE PARK (“PARK”) was and is a Supervisor for Defendants DONE and LA, and held supervisory authority over Plaintiff, controlling various tangible aspects of Plaintiff’s board membership, including the ability to punish, elect and remove Plaintiff from subcommittees.

II.

JURISDICTION

12. Defendants LA, WEST HILLS, and DONE are subject to suit under the California Fair Employment and Housing Act (“FEHA”) as they regularly employ five or more persons in the State of California. [Gov’t Code § 12926(d).] FEHA prohibits discrimination and retaliation on the basis of race, sex, color, national origin, ancestry and age, among other acts, by an employer against an employee.

13. Defendants LA, WEST HILLS, and DONE are subject to suit under the Unruh Civil

1 Rights Act. The Unruh Civil Rights Act states that all persons within the jurisdiction of this state are
2 free and equal, and no matter what their sex, race, color, religion, ancestry, national origin,
3 disability, medical condition, genetic information, marital status, sexual orientation, citizenship,
4 primary language, or immigration status are entitled to the full and equal accommodations,
5 advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

6 14. Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN,
7 and PARK are individuals subject to suit under FEHA [Gov't Code § 12940(j)(3)], Unruh Civil
8 Rights Act, and the Ralph Act.

9 15. Plaintiff has exhausted all administrative remedies necessary with the City of Los
10 Angeles and Department of Fair Employment and Housing, and has timely brought this action.

11 16. Venue properly lies in the county of Los Angeles in that the Plaintiff resided in the
12 county during the relevant times; all Defendants reside in this county, do business in, and/or
13 committed the wrongful acts alleged herein within the County of Los Angeles.

14 17. This court has jurisdiction to hear both statutory and common law claims against
15 Defendants.

16 **III.**

17 **FACTS COMMON TO ALL CAUSES OF ACTION**

18 18. At all relevant times, Plaintiff became an employee of Defendants WEST HILLS,
19 LA, and DONE on approximately May 2019.

20 19. At all times material, Plaintiff was and is a Black, African American male, and a
21 resident of the State of California.

22 20. At all times material, Defendant WEST HILLS is a neighborhood council which
23 according to its mission statement, “[provides] a forum in which West Hills stakeholders can learn
24 about issues that affect the community and express their concerns and ideas; to recommend actions
25 by government officials to address the needs of the West Hills community; to promote
26 communication between Stakeholders and all levels of government; and to foster pride and
27 participation in addressing the needs of the community.”

28 21. Around May 2019, Plaintiff was elected to be a board members for Defendant WEST

1 HILLS.

2 22. Plaintiff is the first Black, African American to be elected to serve on Defendant
3 WEST HILLS' neighborhood council. Plaintiff is still the only Black, African American to have
4 been elected, and is still the only Black, African American board member for Defendant WEST
5 HILLS.

6 23. As a Board member for Defendant WEST HILL, Plaintiff avidly represents and gives
7 a voice for the stakeholders of West Hills, including the Chumash Tribe, Parents Against Santa
8 Susana Field Lab Disaster, West Hills Minority residents, and all other Stakeholders that want
9 honest representation.

10 24. Plaintiff additionally served as a member of the Government Relations Committee
11 and the Special Events Committee, and serves as a member of the Beautification Committee, Budget
12 Committee, Emergency Preparedness Committee, and is the Chair of the Streets and Transportation
13 Committee.

14 25. At all times material, Defendant DAN BRIN ("BRIN") was and is a Caucasian male
15 and the President of Defendant WEST HILLS.

16 26. At all times material, Defendant STEVE RANDALL ("RANDALL") was and is a
17 Caucasian male board member for Defendant WEST HILLS, Co-Chair for the Environment
18 Committee, Co-Chair for the Special Events Committee.

19 27. At all times material, Defendant MYRL SCHREIBMAN ("SCHREIBMAN") was
20 and is a Caucasian male board member for Defendant WEST HILLS, Co-Chair for the Special
21 Events Committee, and Plaintiff's supervisor.

22 28. At all times material, Defendant JOANNE YVANEK-GARB ("GARB") was and is a
23 Caucasian female board member for Defendant WEST HILLS, Co-Chair for the Government
24 Relations Committee.

25 29. At all times material, Defendant CHAR ROTHSTEIN ("ROTHSTEIN") was and is a
26 Caucasian female and the Vice President of Defendant WEST HILLS.

27 30. Throughout Plaintiff's tenure as a Board member, Defendants RANDALL and
28 SCHREIBMAN tried to find ways to get Plaintiff in trouble or cause him to make a mistake because

1 of Plaintiff's race, color and national origin.

2 31. By way of example only, around October, 2019, Plaintiff was working on the design
3 for the Halloween Certificates and received permission from Defendant RANDALL to print the
4 designs. After Plaintiff printed out the forms, Defendant RANDALL stated that he never gave
5 permission to print them. Defendant RANDALL did this because of Plaintiff's race, color and
6 national origin. Plaintiff complained to Defendant BRIN and Defendant BRIN told Plaintiff that he
7 will talk to Defendant RANDALL.

8 32. Around November, 2019, Plaintiff approached Defendant RANDALL and told him
9 that "we need to be more professional." Defendant RANDALL responded, "***I do not have to be***
10 ***professional, I am not being paid.***"

11 33. Around June 15, 2020, during a government meeting, the board was discussing board
12 member Zachary Volet's proposal to ban rubber bullets. During this discussion, Plaintiff shared his
13 negative experiences and interactions with police while he was driving. Defendant GARB made
14 light of Plaintiff's experiences by comparing her own experiences, saying that police stopped her for
15 "***driving while cute.***"

16 34. Around June 19, 2020, Plaintiff received a phone call from Defendant RANDALL.
17 On that phone call, Defendant RANDALL expressed to Plaintiff that Zachary Volet sent an email
18 accusing Defendant RANDALL and WEST HILLS' board members of racism, and that it was full of
19 old racist people, stemming from Defendant GARB making light of the race issues during the June
20 15, 2020 meeting.

21 35. Around June 20, 2020, Plaintiff received an ignorant, discriminatory and offensive
22 email from Defendant RANDALL which stated:

23 From the perspective of a white guy who was raised in a non-prejudice middle class
24 home in West Los Angeles, I agree with the position in the email below.

25 I wanted to get your perspective.

26 Thanks,
27 Steve

28 Nancy Green

1 The world knew her as "Aunt Jemima," but her given name was Nancy Green and she
2 was a true American success story. She was born a slave in 1834 Montgomery
3 County, KY... and became a wealthy superstar in the advertng world, as its first
4 living trademark.

5 Green was 56-yrs old when she was selected as spokesperson for a new ready-mixed,
6 self-rising pancake flour and made her debut in 1893 at a fair and exposition in
7 Chicago. She demonstrated the pancake mix and served thousands of pancakes... and
8 became an immediate star. She was a good storyteller, her personality was warm and
9 appealing, and her showmanship was exceptional. Her exhibition booth drew so many
10 people that special security personnel were assigned to keep the crowds moving.

11 Nancy Green was signed to a lifetime contract, traveled on promotional tours all over
12 the country, and was extremely well paid. Her financial freedom and stature as a
13 national spokesperson enabled her to become a leading advocate against poverty and
14 in favor of equal rights for folks in Chicago.

15 She maintained her job until her death in 1923, at age 89.

16 Nancy Green was a remarkable woman... and has just been erased.

17 Nancy Green, (aka Aunt Jemima) was born into slavery. She was magnificent cook.

18 When she was 'freed' she rolled her talent that into a cooking brand that GM bought
19 & used her likeness.

20 She died in 1923 as one of America's first black millionaires.

21 Now the liberals are removing her from her own product she developed in her rags to
22 riches cooking business?? I say, removing her is what's racist.

23 36. Around June 22, 2020, Plaintiff responded to Defendant RANDALL in an email,
24 which he also sent to Robert Brostoff, a board member for Defendant WEST HILLS, and stated:

25 The content of the email was cooked in a pot made of equal parts of white supremacy,
26 white privilege and false information. The white supremacy part is, that you think you
27 are superior to tell another race how they should feel and call them racists for not
28 sharing your opinion. The white privilege is you don't even understand this is what
you are doing. The false information is Nancy Green did not die a millionaire, she
worked as a housekeeper until she was too old and sick to continue to work. She was
paid little money for her image and speaking. The pancake mix was not her recipe. It
was sold with little success under a name something like "Self Rising Pancake Mix"
by a failing company. She was exploited and paid little. Her image made the product
a success and was used at a time when movies had big fat black women cast as cooks
and when many in the suburbs and the south had black cooks. Which says much to
the racism of the product itself. This was the image that whites excepted of blacks at
the time. It couldn't have been more racist well I guess they could had had her tap
dancing in the kitchen. Her image was changed in the 70's (I think) from a scarf on

1 her head to processed hair at a time when blacks were sporting Afros.

2 When I was growing up in the schoolyard Aunt Jemima was to used as a derogatory
3 term between blacks when name calling. It went something like this "Ain't yo Mama
4 on the cover of the pancake box", meaning your mother is low class, cooks for white
people and looks like a slave.

5 Attitudes like this is why Zach writes what I'm told he writes. (I have not seen the
6 email) I think if you wrote this to Zach he would be much less diplomatic since it's
7 pretty racist from start to finish. I think he is much more emotional than I. He does
have an abundance of empathy. Racism with or without malice is still racism.

8 Now ask me about 'Uncle Tom's Rice'..... I mean Uncle Ben's.

9 37. Around June 22, 2020, Defendant RANDALL sent another abhorrent, discriminatory,
10 and offensive email which threatened Plaintiff. The email contained a video from The Danish
11 National Symphony Orchestra & The Danish National Concert choir performing Ennio Morricone's
12 The Good, the Bad and the Ugly. One minute and four seconds into the video and through the rest
13 of the video, a black man is shown hanging from a noose.

14 38. Later that night, around June 22, 2020, Plaintiff emailed Defendant BRIN and Robert
15 Brostoff stating:

16 With the current suspected lynchings of black men. Steve sent me this of a guy hanging. I
17 don't care what music is attached.. What the hell is wrong with this guy. What is [he] trying
18 to say to me? He is not this stupid he know exactly what [he] is saying and doing. It's time
19 for him to go. I take this as a threat. Your many many talks with him have did nothing.
20 There have been too many complaints from stakeholders and board members. He has
crossed the line too many times and it is getting worse. Threats are reason for removal not
censure. I would not like to divide the board with this but his actions have to be addressed. I
got his message loud and clear.

21 39. Around June 22, 2020, Mr. Brostoff responded to Plaintiff's email saying:

22 I agree with you. However, unfortunately, we may not be able to go directly to removal. We
23 may need to go to censure first.

24 This is definitely one more harassment and threat. His supposed apology to me was only half
25 hearted, and meaningless and it was only a couple of weeks ago. It's time to get serious with
him. No more "let's make peace" meetings with him.

26 I fully support you, Tony.

27 I suggest that you send an email to Elise.ruden@lacity.org with a copy of the video and your
28 concerns. Ask her if we can go directly to removal. You may want to point out to her that this

1 is not the first complaint against him, however it is the most provocative one. There have
2 been many more from both board members and stakeholders regarding his attitude towards
3 people. However he has never been censured. It has mostly been a "meeting to resolve
4 issues" which sometimes ends with a halfhearted apology.

40. Around June 23, 2020, Plaintiff called Defendant BRIN to complain about the
5 discrimination. Defendant BRIN told Plaintiff, "***I am not going to do anything***" and to "***do***
6 ***whatever you think you need to do.***"

41. Around June 29, 2020, Plaintiff received another email from Defendant RANDALL
7 entitled "**Hunting Antifa's, Very Funny.**" In the video, there is a man laying down with a sniper
8 rifle and aiming it while answering another man with the camera's questions. The man with the
9 camera asks, "***What are you doing?***" The man with the sniper rifle responds by shushing the man
10 with the camera and telling him, "***I'm hunting.***" The camera man then asks, "***who are you***
11 ***hunting?***" The man with the sniper rifle responds, "***I'm hunting antifa's.***"[sic] The camera man
12 asks, "***what the hell is an antifa?***" The man with the sniper rifle answers and says, "***they are these***
13 ***small, hairy, little rodents. You usually find them hiding in the burrows of Democrats. The males***
14 ***are little scrawny things, and the most unusual thing about them is that they have no testicles.***
15 ***The females, they are about twice the size of the males, usually they have orange or blue hair, and***
16 ***their mouth is almost as big as their ass. They are generally found in the city, but they been***
17 ***wandering out into the suburbs and the country now.***" The camera man then asks, "***what are you***
18 ***using for bait?***" The man with the sniper rifle responds, "***I use a decoy to bring them in.***" When
19 the camera man asks, "***what kind of decoy?***," the man with the rifle says, "***right there,***" pointing at
20 two American flags.

42. Defendant RANDALL discriminated against and disparately treated Plaintiff because
22 of Plaintiff's color, race, and national origin.

43. Defendant RANDALL created a hostile work environment for Plaintiff because of
24 Plaintiff's color, race, and national origin.

44. Defendant RANDALL retaliated against Plaintiff for Plaintiff's objections and
26 complaints of race, color, and national origin discrimination.

45. Defendant Randall threatened and assaulted Plaintiff.

1 46. Around June 29, 2020, Plaintiff emailed the Deputy City Attorney for the
2 Neighborhood Council Advice Division (NCAD) of the LA City Attorney's Office, Elise Ruden.
3 The email stated:

4 Not sure where to start. I was elected to the WHNC a bit over a year ago. Since then Steve
5 Randall was made subtle attacks, nothing I could not deal with. Recently I opposed a letter
6 that the Environment Committee which he co-chairs wanted to send to the DTSC opposing
7 LA City's position for a full cleanup of SSFL. DONE ultimately agreed that the WHNC can't
8 send the letter to the DTSC directly since WHNC are a advisory body to the City Council
9 which was my position. This seemed to upset the Steve Randal and others on the WHNC.
10 Up to this point nothing I could not deal with.

11 Then the threats came. Subtle but I could hear loud a clear. In the times we are in with BLM
12 I have also been vocal (I happen to be Black). Steve Randall sent me an email basically
13 calling me a racist. That email and my response are attached. Next Steve sent me a video of
14 the song "The Good, The Bad and The Ugly" that has images of a man hanging at the 1:07
15 minute mark Video attached. I got the message loud and clear. This I took as a threat. Steve
16 and I had a conversation regarding race and I'm pretty sure touch on the recent (suspected by
17 some) lynchings. Today I get a second video "Hunting Antifa". In this video there are again
18 subtle stereotyped references to Black people from the guy hunting Antifa with a rifle.

19 Steve Randall has never been censured but has had many private meetings to settle disputes
20 with other board members and stakeholders. He has verbally attacked many board members
21 and stakeholders as well. I think one of those attacked turned physical but this was before
22 my time on the board and you may know better than I.

23 I do feel threatened since I am not sure what this guy might do next. He appears to have
24 serious anger management issues. I need direction and/or action from your office. I have
25 discussed this (except this video today) with Dan Brin and he is not willing to address my
26 concerns. Dan Brin made excuses for Steve Randall in a phone conversation they are
27 friends.

28 47. Around July 3, 2020, Defendant SCHREIBMAN, who is the Co-Cahir of the Special
Events Committee with Defendant RANDALL, sent an email to Plaintiff stating that the Board
accepts Plaintiff's Resignation from the Special Events Committee. However, Plaintiff never
resigned from the Special Events Committee, nor informed Defendant SCHREIBMAN or Defendant
RANDALL that he wanted to resign as a member of the committee.

 48. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL
discriminated against and disparately treated Plaintiff because of Plaintiff's color, race, and national
origin.

 49. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL created a

1 hostile work environment for Plaintiff because of Plaintiff's color, race, and national origin.

2 50. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL retaliated
3 against Plaintiff for Plaintiff's objections and complaints of race, color, and national origin
4 discrimination.

5 51. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL wrongfully
6 terminated Plaintiff from his membership on the Special events committee because of Plaintiff's
7 national origin, race, and color, as well as in retaliation for protesting and objecting to the national
8 origin, race, and color discrimination.

9 52. Around July 6, 2020, Plaintiff called the City Attorney Elise Ruden and explained the
10 discrimination and harassment he was experiencing from Defendants. Ms. Ruden informed Plaintiff
11 that the Department of Neighborhood Empowerment will investigate and make a determination.

12 53. Around July 20, 2020, the Government Relations Committee met. Plaintiff was
13 appointed by the Co-Chair of the Government Relations Committee, Zachary Volet, to be a member
14 of this committee in January of 2020 in compliance with the by-laws. When the meeting started,
15 Defendant GARB, the other Co-Chair of the Government Relations Committee, asked for Plaintiff's
16 name to be removed from the meeting minutes, as she said, "Plaintiff is not a member of the
17 committee," and told Plaintiff, "***You do not belong there.***" This was despite the fact that Plaintiff
18 has participated in previous meetings as a member on the Government Relations Board since
19 January of 2020, voting, and even submitting a motion to have an ethics investigation.

20 54. Around July 20, 2020, in the same public Government Relations Committee meeting,
21 Defendant RANDALL accused Plaintiff of changing the committee rules on Defendant WEST
22 HILLS' website. In addition to this false accusation, Defendant RANDALL called Plaintiff a
23 "***criminal,***" and said, "***I am not a criminal, I am a law abiding citizen.***" Brad Vanderhoof said that
24 he changed the rules on the webpage at the direction of Co-Chair Zachary Volet.

25 55. During the July 20, 2020 meeting, Tom Booth, another member of the Government
26 Relations Committee stated that Plaintiff is "***being treated like a second-class citizen.***"

27 56. In protest of the treatment Plaintiff was being subjected to, other members left the
28 meeting in protest of the treatment towards Plaintiff.

1 57. Several members of the public commented on the discrimination and harassment
2 Plaintiff was subjected to during the meeting making remarks such as ***“I am truly appalled,” “you***
3 ***all should be in jail for this horrible harassment,” “what I hear you doing now to another***
4 ***member, I just cannot even believe my ears, shame on you,” “this is really strange,” “suddenly it***
5 ***seems like there are a couple people who are really oriented to get the only man of color on the***
6 ***committee off,” “it is very fishy,” “put a very horrible feeling in my stomach,” and “it really left***
7 ***me scared as a person of color that really wants to help all of you, how I would feel in this space,***
8 ***or how any other person of color might feel coming into this space.”***

9 58. Throughout the meeting on July 20, 2020, the West Valley People’s Alliance whose
10 mission is “bringing together neighbors, leaders and organizations to build people power and fight
11 for social, economic, worker, environmental, racial, education, healthcare & housing justice for the
12 people of the West San Fernando Valley,” tweeted throughout the meeting. The West Valley
13 People’s Alliance tweeted, “Tom booth says this is appalling & Tony’s being treated like a second
14 class committee member. Says it seems discriminatory,” and “@WestHillsNC accepted Tony’s
15 motion & he’s been involved all year, but several members say he’s not on the committee?”

16 59. After the meeting on July 20, 2020, Brad Vanderhood, a board member for Defendant
17 WEST HILLS who attended the meeting, emailed Plaintiff stating, “Insane defamatory meeting. My
18 sincere apologies.”

19 60. Around July 21, 2020, Plaintiff sent an email to Olivia Naturman, another board
20 member of Defendant WEST HILLS who attended the July 20, 2020 Government Relations
21 Committee meeting, Olivia Naturman. The email stated:

22 I think you should know I've been basically pushed off of 2 committees after last night. I
23 have been on the Government Committee since the beginning of the year with no problem. I
24 filed a compliant with the City Attorney a couple weeks ago, after an email I received from a
25 Board Member. (you can guess who). I considered the the email a threat. It was the third one
26 but the most horrific. See attached video that was attached to the email.

26 How do you think I should feel of take this as a POC.

27 61. Around July 21, 2020, Olivia Naturman responded to Plaintiff’s July 21, 2020 email
28 and said:

1 I am sick to my stomach and appalled. This is unacceptable and he has to go. You
2 have my full support. Please let me know if you sent it to Dan and to the City. I will
3 register a complaint with the City and make sure this doesn't get swept away. I am so
4 sorry this happened. You are valued and needed on those Committees as the
5 exceptional leader that you are. Please let me know how else I can support.

62. Around July 21, 2020, Plaintiff sent another email to Olivia Naturman which stated:

6 There was another video before this one that I sent to Dan and took it as a threat
7 VIDEO-2020-05-23-00-46-21.mp4 . You can see a hanging man at 1:07 mark. This
8 was sent after a conversation on the phone racism. Dan said he wasn't going to do
9 anything and made excuses and ended with him and Steve are friends. He also said
10 the video was sent to others like that makes a difference. He told me do to whatever
11 when I told him I may go to the City Attorney. During my call with Dan I told him I
12 thought I may resign from from Special Events. When the 2nd video came I went
13 straight to the City. After I reported to the City Myrl sent me a email excepting my
14 resignation from special events...I never resigned from SE only told Dan I planned to
15 or might. You saw what happen last night. I've been on the Government Committee
16 for 6 or 7 months. Made motions and voted where others not on the committee
17 couldn't vote. Last night was a total surprise. So this isn't just Steve, Dan is knee deep
18 in this although he pretends he is not. Around July 21, 2020, Olivia Naturman
19 responded in another email by saying, "I am so sorry. I will send out an official
20 complaint. I will still speak to Dan. You are not the one who should have to say
21 anything. This rests solely on Steve's shoulders and [Dan] through his silence."

63. Around July 21, 2020, Olivia Naturman emailed Defendant BRIN and Defendant
22 PARK, stating,

23 I am emailing to convey my dismay, disappointment, and outrage at last night's
24 Government Relations meeting. The blatant disregard for Anthony Scarce by calling
25 his standing on that committee in public was unacceptable. If Joanne Yvonek-Garb
26 can't check 2 email accounts to communicate with her co-chair, that is not the fault of
27 Tony and it should not be open to discussion. The lack of a strong stance by the
28 President of the Board and Vice President only further makes it seem there is no
transparency on this committee at best or that there is discrimination at worst. The
deep divide on our Board and the undercurrent of racial and class discrimination has
been lurking in dog whistle comments by Board Members for all of the years I have
been on the Board. I can no longer stay silent.

Additionally, I am beyond upset at the videos circulated by Steve Randall. I stayed
silent for the first two. The third crosses the line. These are not jokes. Humor is the
oft-used excuse for racist, sexist, or bigoted messages. To send this is beyond bad
taste, it is inexcusable. I will report the video to the City and ask that you lead our
Board through clearly communicating that we are welcome to all, that there is no
room for hatred, threats, or racist policy in the WHNC.

64. Around July 21, 2020, Zachary Volet texted Plaintiff, "I dont even know what to say

1 about last night...that was the most grotesque thing I've ever been a part of."[sic] Mr. Volet
2 continued, stating, "I am considering resigning from the committee altogether," "Steve accused
3 either you or I of 'altering records' last night and then said 'I'm not the one with an arrest
4 record,"[sic] and "I'm sorry you're having to put up with this shit."

5 65. Around July 23, 2020, Zachary Volet texted Plaintiff, referring to Defendant BRIN
6 and Defendant ROTHSTEIN stating, "the two of them are completely spineless and are protecting
7 their friend...and Semee is running cover for all these ghouls...unbelievable."

8 66. Around July 23, 2020, due to the severe emotional distress that the extreme hostile
9 work environment, harassment, and discrimination caused Plaintiff, Plaintiff did not attend a city
10 meeting and texted Brad Vanderhoof, "Sorry I am missing meeting just can't deal with the attacks
11 from some members of the board today."

12 67. Around July 23, 2020, Plaintiff also informed Zachary Volet that he could not make a
13 city meeting as he stated, "I'm just burned today. Just don't want to deal with more racist shit."

14 68. Around July 26, 2020, Zachary Volet emailed Defendant GARB stating:

15 As a result of our last Government Relations meeting, which was appalling for many
16 reasons, foremost among them, the treatment of Tony Searce, I think it's imperative
17 that we hold a special meeting this week to address the standing rules that are now
18 posted on the GRC Committee website.

19 I propose a meeting on July 30th at 6pm.

20 I would like to put the standing rules on the Special Meeting agenda, so that we can
21 settle Committee rules and Committee members. No need for any other agenda items,
22 as I'm sure this will take up enough time.

23 I would like to have all this settled prior to the monthly Board meeting and our
24 monthly Committee meeting next month.

25 69. Around July 27, 2020, Zachary Volet sent another email to Defendant BRIN and
26 Char Rothstein which stated:

27 Please see the email below that I sent Joanne, which she replied to, and felt it necessary to
28 CC both of you and Semee.

Something very, very, insipid is going on here.

The only thing I can possibly imagine motivating this is either racism against our lone black

1 Board member, or retaliation on behalf of Steve Randall.

2 Joanne, who wouldn't know proper procedure if the Roberts Rules of Order were dropped on
3 her head, is hiding behind phony concern for procedure to stall addressing the issue of our
4 Committee membership after her railroading of Tony Searce with the assistance of Steve
Randall at our last meeting.

5 As you both know very well, Steve sent Tony several racist and threatening emails, which
6 Tony reported to DONE and the City Attorney. I, and several other members of our Board
7 who were similarly disgusted by Steve's behavior, have also reported Steve's behavior to
DONE and the City Attorney.

8 It is impossible to view Steve's out of control behavior at our last meeting as anything other
9 than retaliation. He baselessly accused members of the committee of altering the WHNC
10 website for nefarious reasons, and then said "I'm not the one with an arrest record," when
questioned on one of his stances, which clearly shows he has been putting together dossiers
on his "political enemies."

11 It seems obvious he has enlisted Joanne in his crusade for revenge.

12 I would like to know one other example of resistance of this magnitude to admitting a Board
13 member to a Committee. My guess is, this is unprecedented.

14 Joanne has not put together a single agenda nor supporting document packet in over a year
15 plus for the GRC. She is routinely late to our meetings. In fact, her only responsibility in over
16 a year was submitting our CISs on the City Clerk portal. As you both know, she didn't file a
single one.

17 So why is someone who does absolutely no work for this Committee suddenly so concerned
18 with the size and makeup of the committee?

19 This whole thing stinks. And the members of the public who attended the GRC meeting this
20 month all saw it play out, and we're also of the opinion that this entire episode was racially
animated.

21 Something needs to be done. How am I supposed to Chair this Committee, and do ALL of
22 the work, with the incompetence and obstruction of my Co-Chair, and the vindictive nature
of Steve Randall and his cronies?

23 I called for this Special Meeting so that Tony, who was completely railroaded and
24 embarrassed during our last meeting, for arbitrary at best, malicious at worst, reasons,
25 wouldn't have to be in limbo for an entire month on his status as a Committee member.
26 How is that fair to him? How does any of this behavior reflect well on our Board? How is
27 any of this productive to our purpose as a Neighborhood Council? What, exactly, is Joanne's
major issue with adding the only black member of our Board to this Committee when she has
literally done nothing for this Committee in over a year?

28 I would like some assistance in how I should proceed going forward because, honestly, there

1 is no way to make a logical case for any of this.

2 70. Around August 10, 2020, the Director of Neighborhood Council Operations for
3 Defendant DONE, Defendant PARK, informed Plaintiff that “the investigation has concluded and
4 allegations of racial discrimination have been unsubstantiated,” after only speaking to the
5 Defendants.

6 71. Defendant DONE and PARK never interviewed Plaintiff or asked for his
7 participation in the investigation of the discrimination, harassment, and retaliation he was subjected
8 to, but solely spoke to the Defendants listed above.

9 72. Defendants LA, WEST HILLS, BRIN, ROTHSTEIN, DONE, and PARK
10 discriminated against and disparately treated Plaintiff because of Plaintiff’s color, race, and national
11 origin.

12 73. Defendants LA, WEST HILLS, BRIN, ROTHSTEIN, DONE, and PARK created a
13 hostile work environment for Plaintiff because of Plaintiff’s color, race, and national origin.

14 74. Defendants LA, WEST HILLS, BRIN, ROTHSTEIN, DONE, and PARK retaliated
15 against Plaintiff for Plaintiff’s objections and complaints of race, color, and national origin
16 discrimination.

17 75. Around August 13, 2020 the Government Relations Meeting agenda was released.
18 The agenda stated that there will be a vote for the Appointment of new Committee members which
19 included Plaintiff. Despite the fact that Plaintiff had already been appointed as a member of the
20 Government Relations Committee, he now needed to be reappointed because Plaintiff was removed
21 from the Government Relations Committee on July 20, 2020 because of his race, color and national
22 origin, and in retaliation for his numerous complaints of discrimination.

23 76. Defendants LA, WEST HILLS, GARB, BRIN, and RANDALL discriminated against
24 and disparately treated Plaintiff because of Plaintiff’s color, race, and national origin.

25 77. Defendants LA, WEST HILLS, GARB, BRIN, and RANDALL created a hostile
26 work environment for Plaintiff because of Plaintiff’s color, race, and national origin.

27 78. Defendants LA, WEST HILLS, GARB, BRIN, and RANDALL retaliated against
28 Plaintiff for Plaintiff’s objections and complaints of race, color, and national origin discrimination.

1 79. Defendants LA, WEST HILLS, GARB, BRIN, and RANDALL wrongfully
2 terminated Plaintiff from his membership on the Government Relations Committee because of
3 Plaintiff's national origin, race, and color, as well as in retaliation for protesting, objecting and
4 complaining about the national origin, race, and color discrimination and retaliation.

5 80. Around August 24, 2019, Plaintiff filed a claim and complaint through the City of
6 Los Angeles' Claim Portal and with the Department of Fair Employment and Housing (DFEH).

7 81. Since Plaintiff's complaint and filing with the City of Los Angeles and DFEH, the
8 discrimination, harassment, and retaliation has continued.

9 82. Since the filing of the complaint, Defendant RANDALL has accused Plaintiff of not
10 including Defendant RANDALL in zoom meetings and has lied consistently about Plaintiff.

11 83. Around November 23, 2020, Plaintiff complained in an email to Defendant BRIN
12 stating,

13 Many meetings Steve keeps making accusations that I have don something wrong
14 with Zoom. Tonight he said he did not receive the Zoom link again and said he used
15 the link on the agenda, but he entered the meeting as a panelist with his correct name.
16 If you use the link on the agenda you come in as a attendee. Why would he lie.
Zoom sends links to him like everyone else. I even out his aol address and WHNC
address. He did lie technically there is no wat to enter a meeting as a panelist without
the zoom link zoom sends to panelist.

17 84. Around December 14, 2020, Defendant SCHREIBMAN objected to Plaintiff being in
18 charge of painting utility boxes. Defendant SCHREIBMAN only made this complaint when
19 Plaintiff became the chair of the streets and transportation committee.

20 85. Around February 18, 2021, Plaintiff complained again to Defendant BRIN in regard
21 to Defendant RANDALL and SCHREIBMAN's continued discrimination, harassment, and
22 retaliation in an email, stating:

23 Officers of the WHNC Board and Communication Chair,

24 You need to know that yesterday both Steve and Myrl lied and I called them out on
25 the lies. I would never call anyone a liar without proof. I am tried of trying to be
26 diplomatic and excepting the harassment and abuse for "the good of the board".
27 Yesterday they both added slander to the list of abusive behavior. This is my idea of
28 "scorched earth" from now on, I'm not excepting their treatment and harassment, not
excepting lies and not excepting slander. Dan, I will speak out when the incident
occurs instead of complaining to you after the fact and nothing be done.

1 Myrl's statement that I never presented the photo contest to Special Events is a lie
2 proven by Steve Randall's admission that I did in fact propose it to Special Events.

3 Steve Randall stated that, I did propose a Photo contest and was to bring back ideas to
4 the committee, but I resigned and then proposed it in Communication's Committee
5 instead of bring back to Special Events is also a lie. I took it to Communications after
6 denied in Special Events...months before I was removed from that committee. I think
7 it was in January 2020 that I proposed in in Communications. A couple months
8 before I had proposed in Special Events maybe December or November (nothing is
9 reflected in the Special Events minutes). At the February Communications meeting,
10 Steve and Myrl knew they denied to hold a Photo Contest and I was to bring to
11 Communications.. Steve Randall was the one that made the motion to set aside
12 \$1000.00 for a Photo Contest Bob seconded, the motion passed with a unanimous
13 vote, which included Myrl Schreiberman's vote. Why would they vote for funds in
14 Communications if this was to be brought back to Special Events for consideration?
15 (see attached meeting minutes) I was removed from the Special Events Committee in
16 July, long after the funding was voted on in Communications. (See attached email)
17 Let me make it clear I was still on Special Events when Steve Randall made the
18 motion to set aside funding for the Photo Contest in Communications. Steve Randall
19 statement is just not true. Since he was so clear in his stated chronological order of
20 events I can only assume this was a intentional lie. Since Myrl Schreiberman was so
21 clear that I never proposed a Photo Contest in Special Events, but he at last months
22 Communications meeting said the opposite, this too it seems was an intentional lie. I
23 don't know their intention or what they plan to accomplish. My opinion is they may
24 just want to harass and/or have the board believe I have done something improper.

25 I do consider both Myrl and Steve motivation to be racist, I can not explain it any
26 other way, but I can't get in their head to understand to see their reasoning. I know I
27 stand up for them often when I agree. I see that they block or try to block everything
28 I do. They didn't even want to say Happy Holiday's to the stakeholder in a video.
This current incident at Communications they have gone much too far. Officers of
WHNC you need understand this chaos is caused by them and not my refusal to be
harassed, bullied or slandered.

At this evenings Operations Committee, I DEMAND an apology and a admission that
their recollection of the facts was wrong. Any officer of the board can do discuss this
with them if Dan is unwilling. Since their slanderous statements occurred at a public
meeting their apology and admission should be public as well. For the good of the
board this is the best solution.

Officers of this Board, in my opinion you have to act on this, too much gets "swept
under the rug" where most of the board and most of the officers of the board are
unaware.

If no apology is forthcoming, I will proceed with a Censure motion and other
remedies available and I will also reconsider removing them from the Streets &
Transportation Committee. Dan, as per our conversation yesterday before this
incident you told me that I could remove them, but advised me not to because you
thought they would still come to meetings and continue to harass and nothing would

1 change, which I agreed at that time. Dan acknowledged the harassment is most likely
2 retaliation for making complaints in the past, but advised me to do nothing. The
3 harassment is escalating I think reconsidering removal from Streets is warranted.
4 This has to end NOW!

5 86. Around February 18, 2021, Plaintiff sent another email to Defendant BRIN stating,
6 The comments last night by Steve and Myrl were untrue and attacked my character
7 and I consider slanderous... They told all present at that meeting I was lying this
8 needs to be corrected. During that meeting much of Myrl's other comments border
9 harassment as well. This behavior has to stop.

10 87. Around February, 2021, Defendants RANDALL and SCHREIBMAN in further
11 discrimination, harassment, and retaliation, filed a baseless and frivolous complaint against Plaintiff.

12 88. Around March 7, 2021, Ms. Lisa Smith complained to Defendants about the conduct
13 of Defendants SCHREIBMAN and RANDALL at a Defendant WEST HILLS meeting that took
14 place on March 4, 2021. The email stated:

15 Several people have found transphobic, racist, and incredibly problematic tweets of
16 Myrl's on his twitter, and have told me he was even tweeting during the meetings.

17 Steve Randall has also been actively sending threatening tweets, emails, and twitter
18 comments (which is a great way to prove that he is NOT guilty of harassing young
19 women///sarcasm).

20 Both of these men are unhinged and frankly creating a hostile, homophobic, and
21 threatenng environment for not only the Neighborhood Council, but all of West Hills.
22 Is this who we want representing us? No.

23 As one person in the Reseda Neighborhood Council (who also had a homophobic NC
24 member) said, "Imagine when the press gets a hold of this. Imagine how we will
25 look." That member has since stepped down after her censure.

26 Myrl and Steve may have tried to removed the negative comments from the meetinig
27 and their horrifyng, threatening, and homophobic tweets, but let me remind the older
28 members of this council that the internet is forever.

This is a government body with elections, and none of you are above the law. If your
reaction to any type of criticism is to have a public meltdown and harass and threaten
litigation, maybe you need to remove yourself from public office.

Please note: The screenshots attached from Steve and Myrl's personal accounts are
very triggering and troubling, so please be prepared when opening.

I also don't want to hear "what they do outside of the NC doesn't matter" it does. You
have people of color and people in the LGBTQ+ community you represent, Not to

1 mention In this Council, and this behavior should be unacceptable and grounds for
2 immediate removal.

3 Myself and several people no longer feel safe attending these meetings as it stands. I
4 can't even imagine how horrible LGBTQ+ stakeholders in West Hills feel about these
5 actions. If no action is taken, that means the members of the council are complicit
6 with what is happening.

7 89. Around April 3, 2020, Plaintiff again complained in an email to Defendant BRIN
8 which stated,

9 Steve once again at a meeting accused me of something that is just not true. As
10 I have told him before panelists under DONE Zoom setup rules are not allowed to
11 rename themselves. See below partial list of required setting from DONE. At
12 Thursday's board meeting Steve went further and stated that I have in some way
13 singled him out by preventing him to rename. Preventing panelists to rename
14 themselves is a setting in Zoom that applies to everyone. It is not possible to pick and
15 choose. As the Zoom host for the WHNC that holds the license, I am required to
16 follow DONE's rules and guidelines and I shouldn't be harassed for doing so.

17 ZOOM recordings: I request that recording start when Zoom opens. To otherwise I
18 consider a Brown Act violation when our board members discuss future agenda
19 items for the board or committees. Starting meetings early is to allow to fix any tech
20 issues only, not for discussion. This too is a DONE recommendation. Much of the
21 ongoing harassment I suffer from a couple board members occurs during the time
22 before the meeting is called to order. Before a meeting is called to order. WE ARE
23 STILL MEETING and usually have a quorum. They are stating things that are untrue
24 and should be part of the public record, since the board members and attendees that
25 are present hear these untrue statements.

26 This all becoming very stressful.

27 Steve and Joan using the same connection and sharing the same space. I think we all
28 have seen them discuss between themselves on camera and sometimes on audio a
agenda item before a vote. This is a Brown Act violation. We are not allowed to
discuss our votes in private with other board members. Joan need to attend by her
own connection.

Please (Dan or Char) ask all board members to mute themselves until called on to
speak. The outbursts, grunts, dogs barking and laughs is not a good look for our
public presence.

90. Around April 6, 2021, Defendant SCHREIBMAN prevented Plaintiff from attending
any committee meetings for the Special Events Committee. Plaintiff, the only Black, African
America member, was the only person removed from attending these meetings.

91. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL
discriminated against and disparately treated Plaintiff because of Plaintiff's color, race, and national
origin.

92. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL created a

1 hostile work environment for Plaintiff because of Plaintiff's color, race, and national origin.

2 93. Defendants LA, WEST HILLS, SCHREIBMAN, BRIN, and RANDALL retaliated
3 against Plaintiff for Plaintiff's objections and complaints of race, color, and national origin
4 discrimination.

5 94. Plaintiff has still not been re-appointed to his membership to the Government
6 Relations Committee.

7 95. Defendants discriminated against and disparately treated Plaintiff because of
8 Plaintiff's national origin, race, and color by wrongfully removing Plaintiff's membership in two
9 committees.

10 96. Defendants retaliated against Plaintiff because Plaintiff protested and objected to the
11 national origin, race, and color discrimination and hostile work environment Defendants caused
12 Plaintiff.

13 97. Defendants disparately treated Plaintiff by discriminating against and removing
14 Plaintiff from two committees because of Plaintiff's national origin, race, and color.

15 98. Defendants disparately treated, disparately impacted, and discriminated against
16 Plaintiff because of Plaintiff's national origin, race, and color; subjected Plaintiff to a hostile work
17 environment; and ultimately wrongfully removed Plaintiff as a member of the Special Events
18 Committee and Governmental Relations Committee because of Plaintiff's national origin, race, and
19 color and in retaliation for having complained of/objected to discriminatory conduct and assault by
20 Defendant RANDALL.

21 99. As a result of Defendants' discriminatory and intolerable treatment, Plaintiff suffered
22 and continues to suffer from anxiety, loss of sleep, stress, depression, and severe emotional distress.

23 100. Plaintiff has also suffered pecuniary losses, emotional pain, suffering, inconvenience,
24 loss of enjoyment of life, and other non-pecuniary losses.

25 101. As Defendants' conduct has been malicious, willful, outrageous, and conducted with
26 full knowledge of the law, Plaintiff demands Punitive Damages against Defendants.

27 102. Plaintiff claims a continuous practice of discrimination and claims a continuing
28 violation and makes all claims herein under the continuing violations doctrine.

103. Plaintiff further claims aggravation, activation, and/or exacerbation of any preexisting conditions as a result of Defendants' discriminatory conduct.

104. Plaintiff claims actual removal and also seeks reinstatement.

105. Plaintiff claims that Defendants unlawfully discriminated against Plaintiff, disparately treated Plaintiff, disparately impacted Plaintiff, and wrongfully removed Plaintiff because of Plaintiff's race, national origin, and color.

106. The above are just some of the examples of the unlawful discrimination and disparate treatment to which the Defendants subjected the Plaintiff on a continuous and on-going basis throughout Plaintiff's employment.

IV.

FIRST CAUSE OF ACTION FOR DISCRIMINATION BASED ON RACE, NATIONAL ORIGIN, and COLOR IN VIOLATION OF FEHA [Cal. Gov't Code §12940(a)]

(Against Defendants LA, WEST HILLS, and DONE)

107. Plaintiff incorporates by reference and re-alleges the preceding paragraphs, as though fully stated herein.

108. At all times relevant for purposes of this Complaint, the FEHA, Gov't Code §12940(a) was in full force and effect and binding on Defendants. FEHA makes it unlawful for an employer, on the basis of sex, gender, and disability "to discriminate against the person in compensation or in terms, conditions, or privileges of employment."

109. Plaintiff, a Black, African American, was subjected to harassment based on his race, national origin, and color. Defendants and each of them treated Plaintiff differently in the terms and conditions of employment in comparison to the non-Black, non-African American employees.

110. Defendants LA, WEST HILLS, and DONE failed to take any remedial actions against Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK, even after Plaintiff complained to Defendants LA, WEST HILLS, and DONE about Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK's unlawful conduct. Instead, Defendants ignored Plaintiff's complaint and as a result the discrimination and harassment, continued and worsened, leading to further retaliation and Plaintiff's wrongful removal

1 from the Government Relations Committee.

2 111. As a proximate result of Defendants' conduct, Plaintiff has suffered actual,
3 consequential and incidental financial losses, including without limitation, the intangible loss of
4 employment-related opportunities for growth in his field and damage to his professional reputation,
5 all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages
6 together with prejudgment interest pursuant to Civil Code Sections 3287 and/or 3288 and/or any
7 other provision of law providing for prejudgment interest.

8 112. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
9 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
10 and emotional distress and has incurred and will likely incur, medical expenses as a result. Plaintiff
11 is informed and believes and thereon alleges that he will continue to experience said emotional
12 suffering for a period in the future he cannot presently ascertain, all in an amount subject to proof at
13 the time of trial.

14 113. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
15 has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
16 continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover
17 such attorneys' fees and costs under California Government Code Section 12965 (b).

18 114. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
19 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
20 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
21 thereby justifying an award to him of punitive damages in a sum appropriate to punish and make an
22 example of Defendants, and each of them.

23 **V.**

24 **SECOND CAUSE OF ACTION FOR HARASSMENT IN VIOLATION OF FEHA [Cal.**

25 **Gov't Code §12940(j)]**

26 (Against All Defendants)

27 115. Plaintiff incorporates by reference and re-alleges the preceding paragraphs, as though
28 fully stated herein.

1 116. At all times relevant for purposes of this Complaint, Gov't Code §12900 et seq. were
2 in full force and effect and were binding on all Defendants. Gov't Code §12940(j)(1) states that it is
3 unlawful "[f]or an employer...or any other person, because of...race, national origin, or color...to
4 harass an employee...."

5 117. During his employment, Plaintiff was subjected to harassment from Defendants
6 BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK because of
7 Plaintiff's race, national origin, and color. Said conduct was severe, pervasive, constant and
8 continuous, and was offensive, humiliating and harassing to Plaintiff and would have been offensive
9 to a reasonable person under Plaintiff's circumstances.

10 118. Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN,
11 and PARK engaged in harassing conduct that included, but was not limited to comments, gestures,
12 emails, and threats. Plaintiff complained to Defendants about this harassing conduct by Defendants
13 BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK and Defendants
14 failed to take action.

15 119. By failing to conduct a reasonable investigation and not taking proper remedial
16 action, Defendants LA, WEST HILLS, and DONE ratified Defendants BRIN, RANDALL,
17 SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK's unlawful conduct.

18 120. As a proximate result of Defendants' conduct, Plaintiff has suffered actual,
19 consequential and incidental financial losses, including without limitation, the intangible loss of
20 employment-related opportunities for growth in his field and damage to his professional reputation,
21 all in an amount subject to proof at the time of trial.

22 121. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
23 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
24 and emotional distress and has incurred and will likely incur, medical expenses as a result. Plaintiff
25 is informed and believes and thereon alleges that he will continue to experience said pain and mental
26 and emotional suffering for a period in the future he cannot presently ascertain, all in an amount
27 subject to proof at the time of trial.

28 122. The conduct of Defendants, and each of them, and their agents and employees as

described herein, was malicious, fraudulent, and oppressive, and done with a willful and conscious disregard for Plaintiff's rights.

123. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover such attorneys' fees and costs under California Government Code Section 12965(b).

124. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff, thereby justifying an award to his of punitive damages in a sum appropriate to punish and make an example of Defendants, and each of them.

VI.

THIRD CAUSE OF ACTION FOR FAILURE TO PREVENT HARASSMENT AND DISCRIMINATION IN VIOLATION OF THE FEHA [Cal. Gov't Code §12940(k)]

(Against All Defendants)

125. Plaintiff incorporates by reference and re-alleges the preceding paragraphs, as though fully stated herein.

126. At all times relevant for purposes of this Complaint, the FEHA, Gov't Code § 12900 et seq., was in full force and effect and binding on Defendants. FEHA requires Defendants, among other things, "to take all reasonable steps necessary to prevent discrimination and harassment from occurring."

127. In perpetrating the above-described acts and failures to act, Defendants LA, WEST HILLS, and DONE violated California *Government Code* § 12940 by failing to ensure a workplace free of harassment and discrimination. Defendants are responsible for assuring that DFEH provisions are followed, including provisions prohibiting discrimination and harassment against employees.

128. In perpetrating the above-described acts and failures to act, Defendants violated California *Government Code* § 12940 by failing to take all reasonable steps necessary to prevent

1 such discrimination based on race, color, and national origin from occurring.

2 129. Instead, Defendants created and fostered a hostile, offensive, inappropriate and
3 intolerable work environment, where harassment was condoned, encouraged, tolerated, sanctioned,
4 and ratified.

5 130. Defendants repeatedly violated Gov't Code § 12940(k). Defendants' acts and failures
6 to act include, but are not limited to, the following:

- 7 (a) Having no policies, practices and procedures and/or failing to implement
8 policies, practices and procedures and/or having ineffective policies, practices,
9 and procedures regarding Defendants' obligations to refrain from
10 discrimination and harassment;
- 11 (b) Having no policies, practices and procedures and/or failing to implement
12 policies, practices and procedures and/or having ineffective policies, practices,
13 and procedures regarding the handling of complaints of discrimination and
14 harassment;
- 15 (c) Failing to investigate when discrimination and harassment were reported,
16 despite there being such reports;
- 17 (d) Failing to provide any and/or adequate training, education, or information to
18 their personnel, and most particularly to management and supervisory
19 personnel with regard to policies and procedures regarding preventing
20 discrimination and harassment;
- 21 (e) Failing to appoint a qualified, neutral third party to investigate an employee's
22 allegations;
- 23 (f) Failing to transfer employee to a new supervisor under the same terms and
24 conditions of employment;
- 25 (g) Failing to review the employer's anti-harassment policy with the harasser and
26 imposing counseling or discipline as appropriate; and
- 27 (h) Failing to take permanent remedial steps reasonably calculated to end the
28 current harassment and deter future harassment from the same offender or

1 others.

2 131. As a proximate result of Defendants' conduct, Plaintiff has suffered actual,
3 consequential and incidental financial losses, including without limitation, the intangible loss of
4 employment-related opportunities for growth in his field and damage to his professional reputation,
5 all in an amount subject to proof at the time of trial.

6 132. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
7 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
8 and emotional distress and has incurred and will likely incur, medical expenses as a result. Plaintiff
9 is informed and believes and thereon alleges that he will continue to experience said pain and mental
10 and emotional suffering for a period in the future he cannot presently ascertain, all in an amount
11 subject to proof at the time of trial.

12 133. The conduct of Defendants, and each of them, and their agents and employees as
13 described herein, was malicious, fraudulent, and oppressive, and done with a willful and conscious
14 disregard for Plaintiff's rights.

15 134. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
16 has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
17 continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover
18 such attorneys' fees and costs under California *Government Code* Section 12965(b).

19 135. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
20 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
21 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
22 thereby justifying an award to him of punitive damages in a sum appropriate to punish and make an
23 example of Defendants, and each of them.

24 **VII.**

25 **FOURTH CAUSE OF ACTION FOR RETALIATION IN VIOLATION OF FEHA [Cal.**

26 **Gov't Code §§12940(h)]**

27 (Against All Defendants)

28 136. Plaintiff incorporates by reference and re-alleges the preceding paragraphs as though

1 fully stated herein.

2 137. It is an unlawful employment practice to discharge, expel, or otherwise discriminate
3 against any person because the person has engaged in protected activity under *Government Code*
4 §12940. [Cal. Gov't Code §12940(h)]. Plaintiff engaged in protected activity by making complaints
5 of race, national origin, and color discrimination, harassment, and retaliation.

6 138. When Plaintiff would object to and complain of the discriminatory and harassing
7 comments and conduct made by Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-
8 GARB, ROTHSTEIN, and PARK, Defendants would retaliate against Plaintiff.

9 139. As a result of objecting to discriminatory and harassing comments and conduct,
10 Plaintiff experienced differential treatment then his colleagues.

11 140. Plaintiff made complaints about Defendants BRIN, RANDALL, SCHREIBMAN,
12 YVANEK-GARB, ROTHSTEIN, and PARK's conduct, yet the harassment, discrimination, and
13 retaliation continued.

14 141. As a result of engaging in protected activity, Plaintiff suffered adverse actions by
15 Defendants as set forth above.

16 142. There is a causal link between Plaintiff's protected activity and the adverse actions
17 taken against him due to Defendants' knowledge of Plaintiff's protected activity, the proximity of
18 time between said protected activities and the retaliatory actions, the pattern of Defendants' conduct,
19 and the pretextual reason for removing Plaintiff from his position on the Government Relations
20 Committee.

21 143. Defendants' conduct as alleged above constituted unlawful retaliation in violation of
22 the FEHA.

23 144. As a proximate result of the wrongful acts of Defendants, Plaintiff has been harmed
24 in that Plaintiff has suffered actual, consequential and incidental financial losses, including without
25 limitation the intangible loss of employment-related opportunities for growth in his field and damage
26 to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims
27 such amounts as damages together with prejudgment interest pursuant to *Civil Code* Sections 3287
28 and/or 3288 and/or any other provision of law providing for prejudgment interest.

145. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and emotional distress and has incurred and will likely incur, medical expenses as a result. Plaintiff is informed and believes and thereon alleges that he will continue to experience said pain and mental and emotional suffering for a period in the future he cannot presently ascertain, all in an amount subject to proof at the time of trial.

146. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover such attorneys' fees and costs under California *Government Code* Section 12965(b) and/or any other provision of law providing for attorney's fees and costs.

147. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff, thereby justifying an award to him of punitive damages in a sum appropriate to punish and make an example of Defendants.

VIII.

FIFTH CAUSE OF ACTION FOR HARASSMENT AND AIDING AND ABETTING IN

VIOLATION OF GOV'T CODE §§12940 ET SEQ.

(Against all Defendants)

148. Plaintiff incorporates by reference and re-alleges the preceding paragraphs, inclusive, as though set forth fully herein.

149. At all times relevant for purposes of this Complaint, the FEHA, Gov't Code § 12940 et seq., was in full force and effect and binding on Defendants. FEHA states that it is an unlawful employment practice “(i) for any person to aid abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.”

150. As such term is used under FEHA, “any of the acts forbidden under this part this part” means or refers to discrimination and harassment on the bases of one or more of the protected

1 characteristics under FEHA such as race, national origin, or color.

2 151. These laws set forth in the preceding paragraph require Defendants to
3 refrain from harassing, or creating, or maintaining a hostile work environment
4 against an employee based upon his national origin, color, or sex, and for aiding and abetting
5 harassment and retaliation.

6 152. Defendants' harassing conduct was severe and pervasive, was unwelcome
7 by Plaintiff, and a reasonable person in Plaintiff's circumstances would have
8 considered the work environment to be hostile and abusive.

9 153. Defendants violated the FEHA and the public policy of the State of California which
10 is embodied in the FEHA by creating a hostile work environment, and by discriminating and
11 harassing Plaintiff because of his race, color, and national origin, as set forth hereinabove.

12 154. As a proximate result of the wrongful acts of Defendants, Plaintiff has been harmed
13 in that Plaintiff has suffered actual, consequential and incidental financial losses, including without
14 limitation the intangible loss of employment-related opportunities for growth in his field and damage
15 to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims
16 such amounts as damages together with prejudgment interest pursuant to *Civil Code* Sections 3287
17 and/or 3288 and/or any other provision of law providing for prejudgment interest.

18 155. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
19 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
20 and emotional distress and has incurred and will likely incur, medical expenses as a result. Plaintiff
21 is informed and believes and thereon alleges that he will continue to experience said pain and mental
22 and emotional suffering for a period in the future he cannot presently ascertain, all in an amount
23 subject to proof at the time of trial.

24 156. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
25 has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
26 continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover
27 such attorneys' fees and costs under California *Government Code* Section 12965(b) and/or any other
28 provision of law providing for attorney's fees and costs.

157. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff, thereby justifying an award to him of punitive damages in a sum appropriate to punish and make an example of Defendants.

IX.

SIXTH CAUSE OF ACTION FOR VIOLATIONS OF THE CALIFORNIA UNRUH CIVIL RIGHTS ACT, CIVIL CODE § 51, 52

(Against All Defendants)

158. The allegations of each of the preceding paragraphs are re-alleged and incorporated herein by reference.

159. California Civil Code §§ 51 and 51.5, the Unruh Civil Rights Act, provides Plaintiff his rights to “full and equal accommodations, advantages, facilities, privileges or services in all business establishments of every kind whatsoever.”

160. Defendants LA, WEST HILLS, and DONE is a “business establishment” for purposes of the UNRUH Civil Rights Act.

161. The Plaintiff's civil rights were violated by Defendants LA, WEST HILLS, and DONE, including through Defendants agents and/or employees, including but not limited to Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK. Plaintiff had a right to be free from, without limitation, discrimination, abuse, threats, and harassment under the Unruh Civil Rights Act based on, without limitation, his race, national origin, and color.

162. Defendants were acting in their individual capacity, their official capacity, and/or under the color of state and/or city authority and/or in the scope of their employment, agency, joint venture, and/or independent contracting relationship during the instances when Plaintiff was discriminated against, harassed, and treated differently than all other non-Black, non-African American colleagues.

163. Defendants denied Plaintiff full and equal accommodations, advantages, facilities,

1 privileges, and services because of his race, color, and national origin. Plaintiff's race, color, and
2 national origin were a substantial motivating factor for said conduct alleged hereinabove.

3 164. By employing and retaining Defendants BRIN, RANDALL, SCHREIBMAN,
4 YVANEK-GARB, ROTHSTEIN, and PARK and by working in concert and joint venture with said
5 individual Defendants and Defendants LA, WEST HILLS, and DONE, including their agents,
6 independent contractors, and/or employees, Defendants LA, WEST HILLS, and DONE ratified and
7 encouraged the discriminatory and harassing conduct that Plaintiff was subjected to. Thus,
8 Defendants LA, WEST HILLS, and DONE and its other agents, employees, and or independent
9 contractors, denied Plaintiff full and equal access to a perform his duties free from, without
10 limitation, discrimination, abuse, threats, and harassment under the Unruh Civil Rights Act based on,
11 without limitation, his race, national origin, and color.

12 165. A substantial motivating reason for Defendants' conduct in denying Plaintiff full and
13 equal accommodations, advantages, facilities, privileges, and services was that Plaintiff was a Black,
14 African American.

15 166. In engaging in and performing the acts, omissions and conduct alleged above,
16 Defendants denied Plaintiff, and/or aided or incited the denial of the benefits that Plaintiff was
17 entitled to. This denial was undertaken as a direct result of disdain for Plaintiff's race, national
18 origin, and color.

19 167. As a direct and proximate result of Defendants' tortuous acts, omissions, wrongful
20 conduct and breaches of their duties, Plaintiff's employment and professional development has been
21 adversely affected. Plaintiff has lost wages and will continue to lose wages in an amount to be
22 determined at trial. Plaintiff has suffered substantial economic injury, all to Plaintiff's general,
23 special and consequential damage in an amount to be proven at trial, but in no event less than the
24 minimum jurisdictional amount of this Court.

25 168. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
26 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
27 and emotional distress and has incurred and will likely incur, medical expenses as a result. Plaintiff
28 is informed and believes and thereon alleges that he will continue to experience said pain and mental

1 and emotional suffering for a period in the future he cannot presently ascertain, all in an amount
2 subject to proof at the time of trial.

3 169. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
4 has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
5 continue to incur attorneys' fees and costs in connection therewith.

6 170. Pursuant to California Civil Code section 52(a) and 52.1(b), Plaintiff is entitled to
7 recover from Defendants, actual damages as described above, treble damages, and a civil penalty no
8 case less than four thousand dollars (\$4,000), and any attorney's fees that may be determined by the
9 Court in addition thereto.

10 171. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
11 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
12 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
13 thereby justifying an award to him of punitive damages in a sum appropriate to punish and make an
14 example of Defendants.

15 **X.**

16 **SEVENTH CAUSE OF ACTION FOR VIOLATIONS OF THE CALIFORNIA RALPH ACT,**

17 **CIVIL CODE § 51.7**

18 (Against All Defendants)

19 172. The allegations of each of the preceding paragraphs are re-alleged and incorporated
20 herein by reference.

21 173. The RALPH ACT states,

22 "All persons within the jurisdiction of this state have the right to be free from any
23 violence, or intimidation by threat of violence, committed against their persons or
24 property because of political affiliation, or on account of any characteristic listed or
25 defined in subdivision (b) or (e) of Section 51, ..., or because another person
26 perceives them to have one or more of those characteristics. The identification in this
27 subdivision of particular bases of discrimination is illustrative rather than restrictive."
28 Civil Code § 51.7(a).

26 "... race, color, national origin, Civil Code § 51(b).

27 174. At all times mentioned herein above, Plaintiff was the subject of a threat of violence
28 by Defendant RANDALL who among other things, sent Plaintiff a video of a black man hanging

1 from a noose and a video of men talking about shooting “*Antifa’s*.” This act of violence was ratified
2 by Defendants LA, WEST HILLS, and DONE.

3 175. Defendants’ threat of violence against Plaintiff because of his race, national origin,
4 and color caused Plaintiff injury, pain and suffering therefrom.

5 176. Defendants’ above-noted actions were the legal and proximate cause of physical,
6 psychological, emotional, and economic damages, and damage to Plaintiff, who has suffered and
7 continue to suffer to this day. The actions of Defendants have also resulted in Plaintiff incurring, and
8 will require her to incur into the future, expenses for medical and psychological treatment, therapy,
9 and counseling.

10 177. As a result of the above-described conduct, Plaintiff suffered and continues to suffer
11 great pain of mind and body, shock, emotional distress, physical manifestations of emotional
12 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has
13 suffered and continues to suffer and was prevented and will continue to be prevented from
14 performing daily activities and obtaining the full enjoyment of life; has and will continue to sustain
15 loss of earning capacity; and has incurred and will continue to incur expenses for medical and
16 psychological treatment, therapy, and counseling. Plaintiff has also suffered economic, vocational,
17 and employment losses, as well.

18 178. As a result of Defendant’s and his agents’, independent contractors’ and/or
19 employees’ illegal acts as alleged herein, Plaintiff is entitled to reasonable attorneys’ fees and costs
20 of said suit and a civil penalty of \$25,000.00 as provided in Cal. Civil Code § 52.

21 179. The conduct of Defendants, and each of them, was willful, malicious, oppressive,
22 and/or reckless, and done with the intent to oppress plaintiff and with a conscious disregard for
23 plaintiff’s safety, well-being, and deprivation of her liberty. Further, the foregoing intentional acts
24 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff’s rights. As a result
25 of the foregoing, Plaintiff is entitled to punitive, exemplary, and/or treble damages against
26 Defendants, and each of them, in an amount according to proof.

27 180. Plaintiff shall further be entitled to appropriate equitable remedies to be proven at
28 trial.

1 **XI.**

2 **EIGHTH CAUSE OF ACTION FOR NEGLIGENT RETENTION**

3 (Against Defendants LA, WEST HILLS, and DONE)

4 181. The allegations of each of the preceding paragraphs are re-alleged and incorporated
5 herein by reference.

6 182. Plaintiff is informed and believes that Defendants LA, WEST HILLS, and DONE
7 knew that Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and
8 PARK were discriminating, harassing, and retaliating against Plaintiff because of his race, national
9 origin, and color. Plaintiff is informed and believes that Defendants LA, WEST HILLS, and DONE
10 failed to take appropriate and corrective action.

11 183. Plaintiff is informed and believes that had Defendants LA, WEST HILLS, and DONE
12 taken prompt and corrective action against Defendants BRIN, RANDALL, SCHREIBMAN,
13 YVANEK-GARB, ROTHSTEIN, and PARK, that they would not have discriminated, harassed, and
14 retaliated against Plaintiff. Furthermore, Plaintiff is informed and believes that had Defendants LA,
15 WEST HILLS, and DONE taken prompt and corrective action against Defendant RANDALL, then
16 Defendant RANDALL would not have threatened Plaintiff with violence because of Plaintiff's race,
17 national origin, and color.

18 184. Defendants, and each of them, owed Plaintiff a duty of care to act in a reasonable and
19 ordinary manner so as not to cause Plaintiff any foreseeable harm.

20 185. Defendants, and each of them, failed to use ordinary and reasonable care in order to
21 avoid injury to Plaintiff. This includes, but is not limited to, Defendants failure to prevent the
22 individually named Defendants from discriminating, harassing, and retaliating against Plaintiff.

23 186. Plaintiff is informed and believes that Defendants LA, WEST HILLS, and DONE
24 should have known that Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB,
25 ROTHSTEIN, and PARK were discriminating, harassing, and retaliating against Plaintiff because of
26 his race, national origin, and color. Plaintiff is informed and believes that Defendants LA, WEST
27 HILLS, and DONE failed to take appropriate and corrective action.

28 187. Plaintiff is informed and thereon alleges that Defendants LA, WEST HILLS, and

1 DONE had been informed of the discriminatory, harassing, and retaliatory conduct of Defendants
2 and, despite being informed of their unlawful conduct, Defendants failed to discipline Defendants
3 BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK and kept them in
4 their employ, thereby ratifying said unlawful conduct.

5 188. The conduct of Defendants LA, WEST HILLS, and DONE constitute negligence and
6 is actionable under the laws of the State of California. As a direct and proximate result of the acts of
7 Defendants LA, WEST HILLS, and DONE, Plaintiff has suffered, without limitation, emotional
8 distress, fear, embarrassment, anxiety, shame, humiliation, distress, shock, and severe emotional
9 distress.

10 189. Defendants LA, WEST HILLS, and DONE's conduct was reckless and with a
11 conscious disregard of Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive
12 damages against Defendants LA, WEST HILLS, and DONE in an amount to be determined by proof
13 at trial.

14 XII.

15 **NINTH CAUSE OF ACTION FOR NEGLIGENT SUPERVISION**

16 (Against Defendants LA, WEST HILLS, and DONE)

17 190. The allegations of each of the preceding paragraphs are re-alleged and incorporated
18 herein by reference.

19 191. Defendants LA, WEST HILLS, and DONE, and their agents, independent
20 contractors, and/or employees had a duty to provide Plaintiff a position free from discrimination,
21 harassment, threats of violence, and retaliation.

22 192. Defendants LA, WEST HILLS, and DONE were aware that Plaintiff was subjected to
23 discrimination and harassment based on Plaintiff's race, national origin, and color, and failed to take
24 appropriate and corrective action.

25 193. Defendants LA, WEST HILLS, and DONE owed Plaintiff a duty of care to act in a
26 reasonable and ordinary manners so as not to cause Plaintiff any foreseeable harm.

27 194. Defendants, and each of them, failed to use ordinary and reasonable care in order to
28 avoid injury to Plaintiff. This includes, but is not limited to, Defendants failure to prevent the

1 individually named Defendants from discriminating, harassing, and retaliating against Plaintiff.

2 195. Plaintiff is informed and believes that Defendants LA, WEST HILLS, and DONE
3 should have known that Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB,
4 ROTHSTEIN, and PARK were discriminating, harassing, and retaliating against Plaintiff because of
5 his race, national origin, and color. Plaintiff is informed and believes that Defendants LA, WEST
6 HILLS, and DONE failed to take appropriate and corrective action.

7 196. Plaintiff is informed and thereon alleges that Defendants LA, WEST HILLS, and
8 DONE had been informed of the discriminatory, harassing, and retaliatory conduct of Defendants
9 and, despite being informed of their unlawful conduct, Defendants failed to discipline Defendants
10 BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK and kept them in
11 their employ, thereby ratifying said unlawful conduct.

12 197. The conduct of Defendants LA, WEST HILLS, and DONE constitute negligence and
13 is actionable under the laws of the State of California. As a direct and proximate result of the acts of
14 Defendants LA, WEST HILLS, and DONE, Plaintiff has suffered, without limitation, emotional
15 distress, fear, embarrassment, anxiety, shame, humiliation, distress, shock, and severe emotional
16 distress.

17 198. Defendants LA, WEST HILLS, and DONE's conduct was reckless and with a
18 conscious disregard of Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive
19 damages against Defendants LA, WEST HILLS, and DONE in an amount to be determined by proof
20 at trial.

21 **XIII.**

22 **TENTH CAUSE OF ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL**
23 **DISTRESS**

24 (Against All Defendants)

25 199. The allegations of each of the preceding paragraphs are re-alleged and incorporated
26 herein by reference.

27 200. By engaging in the above described conduct, Defendants engaged in extreme and
28 outrages conduct with the intention of causing, or reckless disregard of the probability of causing,

1 emotional distress.

2 201. Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment,
3 humiliation, mental anguish, and severe emotional distress.

4 202. Plaintiff's damages were the actual and proximate causation of the emotional distress
5 caused by Defendants' outrageous conduct.

6 203. Defendants' conduct was reckless and with a conscious disregard of Plaintiff's rights.
7 Plaintiff is therefore entitled to an award of punitive damages against Defendants in an amount to be
8 determined by proof at trial.

9 **XIV.**

10 **ELEVENTH CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF EMOTIONAL**
11 **DISTRESS**

12 (Against All Defendants)

13 204. The allegations of each of the preceding paragraphs are re-alleged and incorporated
14 herein by reference.

15 205. Plaintiff is informed and believes that Defendants LA, WEST HILLS, and DONE
16 knew or should have known that Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-
17 GARB, ROTHSTEIN, and PARK were discriminating, harassing, and retaliating against Plaintiff
18 because of his race, national origin, and color.

19 206. Plaintiff is informed and believes that Defendants LA, WEST HILLS, and DONE
20 failed to take appropriate and corrective action against Defendants BRIN, RANDALL,
21 SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK.

22 207. Plaintiff is informed and believes that had Defendants LA, WEST HILLS, and DONE
23 taken prompt and corrective action against Defendants BRIN, RANDALL, SCHREIBMAN,
24 YVANEK-GARB, ROTHSTEIN, and PARK, that they would not have discriminated, harassed, and
25 retaliated against Plaintiff. Furthermore, Plaintiff is informed and believes that had Defendants LA,
26 WEST HILLS, and DONE taken prompt and corrective action against Defendant RANDALL, then
27 Defendant RANDALL would not have threatened Plaintiff with violence because of Plaintiff's race,
28 national origin, and color.

208. Defendants, and each of them, owed Plaintiff a duty of care to act in a reasonable and ordinary manner so as not to cause Plaintiff any foreseeable harm.

209. Defendants, and each of them, failed to use ordinary and reasonable care in order to avoid injury to Plaintiff. This includes, but is not limited to, Defendants failure to prevent the individually named Defendants from discriminating, harassing, and retaliating against Plaintiff.

210. Plaintiff is informed and thereon alleges that Defendants LA, WEST HILLS, and DONE had been informed of the discriminatory, harassing, and retaliatory conduct of Defendants and, despite being informed of their unlawful conduct, Defendants failed to discipline Defendants BRIN, RANDALL, SCHREIBMAN, YVANEK-GARB, ROTHSTEIN, and PARK and kept them in their employ, thereby ratifying said unlawful conduct.

211. The conduct of Defendants LA, WEST HILLS, and DONE constitute negligence and is actionable under the laws of the State of California. As a direct and proximate result of the acts of Defendants LA, WEST HILLS, and DONE, Plaintiff has suffered, without limitation, emotional distress, fear, embarrassment, anxiety, shame, humiliation, distress, shock, and severe emotional distress.

XV.

TWELFTH CAUSE OF ACTION FOR COMMON LAW-ASSAULT

(Against All Defendant Randall)

212. Plaintiff incorporates by reference and re-alleges the preceding paragraphs, inclusive, as though set forth fully herein.

213. At all times mentioned herein above, Plaintiff was the subject of a threat of violence by Defendant RANDALL who among other things, sent Plaintiff a video of a black man hanging from a noose and a video of men talking about shooting “*Antifa’s*.”

214. Defendant Randall repeatedly threatened to touch Plaintiff in a harmful or offensive manner, and it reasonably appeared to Plaintiff that Defendant Randall will carry out this threat.

215. Plaintiff obviously did not consent to Defendant Randall's conduct.

216. Defendant Randall thus assaulted Plaintiff under California law.

217. Defendants violated the above and Plaintiff suffered numerous damages as a result,

1 the extent of which must be determined at trial.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, PLAINTIFF prays for judgment as follows:

- 4 1. For all actual, consequential and incidental financial losses, including without limitation
5 loss of salary and benefits, together with prejudgment interest, according to proof;
6 2. For compensatory and general damages in an amount according to proof;
7 3. For punitive damages;
8 4. For Attorney's fees;
9 5. For prejudgment and post-judgment interest according to any applicable provision of law,
10 according to proof;
11 6. Costs of suit; and
12 7. For such other and further relief as the Court may deem just and proper.

13
14 Dated: April 16, 2021

DEREK SMITH LAW GROUP, LLP
Attorneys for Plaintiff

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Dated: April 16, 2021

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